

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JAMES K. RICE,)	
)	Jury Demand
Plaintiff,)	
v.)	No. 3:15-CV-0398
)	
AUTUMN ASSISTED LIVING)	Judge Campbell
PARTNERS, INC.,)	
Defendant.)	Magistrate Judge Knowles

**PLAINTIFF'S MOTION IN LIMINE NO. 2 AND MEMORANDUM
OF LAW TO EXCLUDE EVIDENCE OF PRIOR CONVICTIONS**

Pursuant to Rules 401, 402, 403, and 609 of the Federal Rules of Evidence, Plaintiff James Rice, moves the Court to exclude evidence or testimony regarding:

- (1) Plaintiff's conviction for driving under the influence, and
- (2) Plaintiff's conviction for domestic violence.

Both convictions are more than ten (10) years old. Plaintiff Rice contends any testimony or evidence regarding any of the above facts does not have "any tendency to make a fact more or less probable than it would be without the evidence" and none of the testimony "is of consequence in determining the [Title I] action." The testimony is irrelevant therefore, inadmissible under Fed. R. Evid. 402. The convictions are also inadmissible under Fed. R. Evid. 609(a), since both convictions are more than 10 years old, and neither involve "a dishonest act or false statement."

If the Court should find, however, that the evidence is somehow relevant to the allegations in this case, the Court should exclude it from this trial because the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, waste of time or misleading the jury pursuant to Fed. R. Evid. 403.

Accordingly, Plaintiff respectfully requests the Court grant this Motion *in Limine* and exclude from evidence any proof regarding the prior convictions for driving under the influence or domestic assault.

THE LAW OFFICE OF DAVID L. COOPER, P.C.

s/ David L. Cooper

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing **Plaintiff's Motion in Limine** has been delivered by electronic transmission through the CM/ECF system to **James K. Simms, IV, Esq., and Jennifer M. Lankford, Esq., Thompson Burton PLLC**, One Franklin Park, 6100 Tower Circle, Suite 200, Franklin, TN 37067, on this 30th day of September, 2016.

s/ David L. Cooper
DAVID L. COOPER